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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 18th day of June, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition Nos. 29697 to 29699 of 1993

1. M/s. N.S. Girimaji & Sons
(Electricals),
Municipal Malige No.2,
Nehru Road, Shimoga,
represented by its Partner
Sri G.S. Girimaji,
s/o late Shivaji Girimaji;
2. Sri Kuppanna Iyengar,
s/o late A. Iyengar,
Proprietor,
Sri Rama Services,
Municipal Malige No.3,
Nehru Road, Shimoga;
3. Sri K.S. Vittal Shetty,
s/o late Kasala Somanna Shetty,
Proprietor,
Kasala Somanna & Sons.,
Municipal Malige No.4,
Nehru Road, Shimoga ..Petitioners

(By Mrs. Prabha R. Girimaji, Advocate)

-Vs-

1. The State of Karnataka,
Department of Municipal Administration,
Visweswaraya Towers,
Bangalore-1, represented by its
Commissioner;
2. The Administrators,
Shimoga-Bhadravathi Corporation,
Shimoga;
3. Commissioner,
Shimoga-Bhadravathi Corporation,
Shimoga .. Respondents

(By Sri A. Nagarajappa, AGA, for R1;
Sri N.K. Ramesh, Adv., for R2 & R3)

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Writ Petitions are filed praying to quash the order vide Annexures 'A-1 to A-3' dated 23-5-1992 and Annexures D-1 and 'D-2' dated 28-7-1993 as illegal and unsustainable, etc.

These writ petitions coming on for preliminary hearing in 'B' Group this day, the Court made the following:-

O R D E R

Sri N.K.Ramesh who appears for third respondent, also takes notice for second respondent. Sri A. Nagarajappa, learned AGA, is directed to take notice for first respondent.

2. The petitioners are the tenants of the third respondent in the municipal buildings (Note:- It is stated by the learned Counsel for the third respondent that Shimoga-Bhadravathi Corporation has now become Shimoga City Municipal Council). Each of the petitioners were paying rent of Rs.496/- per month. The third respondent issued endorsements dated 23-5-1992 (Annexures-A1 to A3) to the petitioners increasing the rent from Rs.496/- to Rs.2,000/- per month with effect from 1-10-1991 to 30-9-1994. On the basis of such retrospective increase, petitioners were required to pay a sum of Rs.15,008/-, Rs.16,000/- and Rs.15,704/- respectively as at the end of 31-5-1992. Feeling aggrieved, petitioners

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filed their objections as per Annexures 'B' and 'C' pointing out that they had taken the premises on a monthly rent of Rs.40/- in the year 1952 and the same had been increased from time to time to Rs.496/- and when that was so, there was absolutely no justification for suddenly increasing the rent to Rs.2,000/- per month. In reply two of the petitioners have received endorsements dated 28-7-1993 (Annexures-D1 and D2) ~~and~~ stating that it was not possible to reduce the rent of Rs.2,000/-. Feeling aggrieved, petitioners have filed these petitions for quashing Annexures-A1 to A3 and D1 and D2. They have also sought a direction to the respondents to refund the increased rent which has already been paid or alternatively to adjust the same towards the future rents.

3. The Municipality is the lessor and the petitioners are the lessees. The agreed rent is Rs.496/-. The rent for the leased premises cannot be increased unless it is agreed to by the tenant. The Municipality has no power to unilaterally increase the rent in the absence of a provision for such increase either in the Karnataka Municipalities Act or in the contract between the

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parties. It is not the case of the respondents that there is any such power either under the Karnataka Municipalities Act or under any contract between the parties. In fact, the Municipality has not referred to or relied on any such provision or contract for increasing the rent. In the absence of any statutory provision or contract, the Municipality could not have increased the rent muchless increase it by nearly 400%. If the Municipality wanted an increase, the appropriate course was to hold negotiations with the tenants for a reasonable increase. In fact, the petitioners have stated that they are agreeable for any reasonable increase having regard to the market conditions and other circumstances. The demand for increase is without authority of law and wholly arbitrary. It is no doubt true that if the tenant does not agree for the rent, the municipality can initiate action for eviction. But it cannot force its tenants to pay higher rent.

4. Hence, these petitions are allowed and Annexures-A1 to A3, D1 and D2 are quashed. The third respondent is directed to receive rent of Rs.496/- per month unless otherwise increased in accordance with law or by mutual agreement.

5. Sri A.Nagarajappa, learned AGA, is permitted to file Memo of Appearance within six weeks.

Sd/-
JUDGE

